

## May 16, 2013, Zoning Administrator Agenda Items

Comments submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### General comments:

1. The "Public Notice" section of all four hearing item staff reports says notice was published, mailed and "*posted on the subject property at least 10 days **prior to the decision date**, consistent with the provisions of the Municipal Code.*" NBMC Section 20.62.020.B actually requires those actions to be completed "*at least ten (10) days **before the scheduled hearing**,*" not the decision (which could presumably come many days after the initial hearing). The statements in the staff reports provide no assurance the hearings were properly noticed, although the resolutions say they were.
2. Passages shown below, with no further explanation, but in *italics* with **strikeout underline** are suggested corrections of what seem to be typos.

### Item B: Minutes of April 25, 2013

Page 1, Item C, paragraph 1: "...*the proposed towers would measure approximately 2 feet 3 inches **in** higher than the existing building.*"

### Item C.2. 424 Marguerite Avenue Parcel Map (PA2013-060)

Comments on Draft Resolution (Attachment No. ZA 1):

1. Section 1.4.: "*The subject property is not located within the ~~coastal-zone~~ **Coastal Zone**.*"
2. The Facts in Support of Finding: I-1. : "*Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need*" seem questionable:
  - a. Section 66412.3 of the Subdivision Map Act involves considering the housing needs of the region and "*balanc[ing] these needs against the public service needs of its residents and available fiscal and environmental resources.*"
  - b. California Government Code Section 65584 involves housing for all income levels, and not having a disproportionate fraction in any one category.
  - c. By adding one unit to the City's housing stock in a particular income category, doesn't this approval affect the City's ability to meet its goals with respect to both these sections?
3. Exhibit "A" : Conditions of Approval
  - a. Condition "10. All above ground improvements shall stay a minimum **of** 5-feet clear of the alley setback."

### ***Item C.3. 1200 W. Ocean Front Lot Line Adjustment (PA2013-062)***

Comments on Draft Resolution (Attachment No. ZA 1):

1. Section 3.A.:
  - a. Isn't the loss of parking for the existing residence going to have an impact on the neighborhood?
2. Section 3.C.:
  - a. The resolution does not make clear what lot area and dimensions are required to be conforming, and hence whether the new lots will be more or less conforming than they are now. The lot line adjustment exhibits in Attachment No. ZA 3, similarly fail to identify the width of the proposed Parcel 2.
  - b. Is it correct to guess they were originally equal at 36.44 feet wide, and that with 3.0 feet taken away, Parcel 2 will be 33.44 feet wide?
  - c. What is the minimum conforming lot area?
3. Exhibit "A" : Conditions of Approval
  - a. Should there be a condition requiring markers to be placed memorializing the new lot line?
  - b. Why is the existing carport being required to be demolished, but not the existing garage? Is the garage, with zero setback from the alley, conforming?
  - c. Will additional parking need to be provided on Parcel 1 to make up for the loss of the carport?
4. Lot Line Adjustment Exhibits (Attachment No. ZA 3):
  - a. I assume that most of the heavy black line ("Proposed Parcel 1 Line") was intended to be drawn as a dashed line signifying "Existing Lot Line to Remain."
  - b. Wouldn't "Proposed Parcel 1 Line" be better described as "Proposed Parcel 1 - Parcel 2 Boundary Line"?
5. General comments:
  - a. Presumably this application would not have been made unless the applicants had plans to develop Parcel 2. Is it possible they are planning to demolish and rebuild Parcel 1 at the same time? If so, would it not be better to leave the line where it is, retaining lots with equal sizes?
  - b. Since the City of Newport Beach currently lacks the authority to make findings of consistency with the Coastal Act, to comply with the California Supreme Court opinion in *Pacific Palisades Bowl Mobile Estates, LLC v\_ City of Los Angeles*, [55 Cal.4th 783](#) (2012), it would seem the applicants need to apply for a Coastal Development Permit and receive either a permit, or waiver, before the lot line adjustment becomes final.

### ***Item C.4. West Marine Comprehensive Sign Program (PA2013-056)***

Comments on Draft Resolution (Attachment No. ZA 1):

1. Section 1.4.: "*The subject property is located within the ~~coastal-zone~~ Coastal Zone.*"
2. Section 3.1:
  - a. A-1: "*The structure which the signs are proposed to be located on is the anchor retail building ...*"
  - b. B-3: A statement is offered justifying "*the two signs proposed on the west elevation.*" Does an additional justification need to be offered for the sign on the **east** elevation?

- c. C-2. Says *"The sign program includes an exemption for incidental signage associated with the display cases."*
  - i. I am unable to find any explanation of why these are unregulated.
  - ii. Would they be exempt if there were no sign program?
- d. E-2: *"The deviations in location and size allow for better sign placement on the two architectural tower elements and the large building ~~wall~~ walls facing the west parking lot and Newport Boulevard."*
- 3. Section 3.2:
  - a. A-1: *"The structure which the signs are proposed to be located on is the anchor retail building ..."*
  - b. C-3: *"... the location of the entrance into the building from the parking lot ~~of~~ on the west side ..."*
  - c. D-1: *"... would be legible for pedestrians and ~~motorist~~ motorists travelling along adjacent streets."*
- 4. Exhibit "A" : Conditions of Approval
  - a. Condition 1: the staff report says the program provides flexibility for future tenants, but Condition 1 would seem to limit the approval to the specific design offered.
  - b. Condition 9: *"... if it is determined that ..."*
- 5. Exhibit "B" : Sign Matrix Program
  - a. It is unclear why the Location A and Location B signs are given a cumulative area rather than individual areas.
  - b. *"Monument Sign (intersection of Finely Finley Avenue and Newport Boulevard)"*

### **Item C.5. Freestanding Commercial Monument Signs (PA2013-040)**

Comments on Draft Resolution (Attachment No. ZA 1):

- 1. Section 1.1.: *"...inclusive, of miscellaneous maps, in the office of the County Recorder of said county, ~~Together~~ , together with that portion of Parcel 2 of Lot Line Adjustment No. LA2012-004, Recorded recorded September 11, 2012 ..."*
- 2. Section 1.4.: *"The subject property is located within the ~~coastal-zone~~ Coastal Zone."*
- 3. Section 3:
  - a. Finding B: I do not believe any of the facts offered support this finding. I see nothing about the physical characteristics of the site requiring a taller than normal sign.
  - b. Finding C: I do not believe any of the facts offered support this finding, either. In particular, I see no unusual *"practical difficulties associated with the property"* that should not have been anticipated in the PC text.
  - c. Finding D: I do not believe any of the facts offered support the finding, nor that they in any way compel the conclusion that alternatives are not available.

Comments on Project Plans (Attachment No. ZA 3)

- 1. Plans G6 and G7 beautifully illustrate the *lack* of any need for this Modification Permit. Most of the vertical sign space is blank and the copy shown could easily have been accommodated within the previously approved 5 foot height.
- 2. The proposed copy in Plan G5 could easily have been rearranged within the 5 foot height limit.